

APPROVED: Meeting No. 39-93

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 37-93

October 25, 1993

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on October 25, 1993, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember David Robbins  
(Absent on travel)

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell and City Attorney Paul Glasgow.

Re: City Manager's Report

1. The Mayor and Council and staff will be conducting a business site visit with Phillips Publishing Company, one of the largest employers in the community, on October 27th at 5:00 p.m.
2. Mr. Romer noted that staff had completed some research and were prepared to give the Mayor and Council recommendations on the idea of designating a portion of the Upper Watts Branch Park as an urban wildlife sanctuary.

3. Earlier this evening, the Art In Public Places project dedicated photo journalist Earl Dotter's photographic exhibit of "Employees At Work", which is displayed in the City Manager's conference room.

4. On October 26th, the City will be making its presentation to the Bond rating agencies on the upcoming bond sale and refinancing of the City's bonds.

5. Mr. Romer announced that staff was on top of one of the Mayor and Council's major challenges--to prepare an updated personnel and policies procedures manual for employees. Mr. Romer reported that the project was literally in its final stages.

Mayor Duncan acknowledged his mother, Ellie Duncan, who was in attendance at the evening's meeting.

Re: Proclamation recognizing  
October 27, 1993 as  
**NATIONAL UNFUNDED  
MANDATES DAY.**

An opportunity for local elected officials to educate Americans on the problems that unfunded state and federal mandates are causing our local governments.

By a unanimous vote of the Mayor and Council, October 27, 1993 was declared "National Unfunded Mandates Day" in Rockville. Councilmember Coyle read the Proclamation, the full text of which can be found in Proclamation File No. 7 of the Mayor and Council. Copies of the Proclamation will be forwarded to the Maryland Municipal League and the U.S. Conference of Mayors.

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Re: Presentation to Jim Offord and former students of Lincoln High School - **CANCELED**.

Re: Presentation of Certificates to Gloria Poole and Andrea Hannum for their work on planning the 1992-93 centennial activities for Richard Montgomery High School.

Mayor Duncan noted that Ms. Poole and Ms. Hannum were tremendous advocates of Rockville and Richard Montgomery (RMHS) high schools and planned a number of activities for the RMHS centennial. Ms. Poole thanked the City staff for their assistance in the centennial celebration and then presented to the Mayor and Council, a framed picture depicting three scenes of historic RMHS.

Re: Presentation of Certificate to Gino Valenti, Community Ministries of Rockville Volunteer, in recognition of his work on behalf of affordable housing in the City of Rockville.

Mayor Duncan noted that Mr. Valenti was a real advocate for affordable housing in the City and County and was a caring and compassionate person who always stood out at public events. Mr. Valenti thanked the Mayor and members of the Council and said he it had been a real pleasure to have been guided by Community Ministries of Rockville.

Re: Citizens Forum

1. Russ Arlotta, Attorney for MIG Research Boulevard Development Corporation (MIG), read into the record and submitted written testimony to Mayor and Council regarding

Item #11; the adoption of an ordinance to levy assessments against properties adjacent to Research Boulevard. Mr. Arlotta stated that when MIG purchased the property from Boulevard Associates in 1989, Boulevard Associates had failed to inform them of the agreement between Boulevard Associates and the City for the imposition of special assessment improvements. In addition, Mr. Arlotta said that the City failed to record the agreement in the County Land Records. He asked that the Mayor and Council refrain from adopting the ordinance until the issues he had raised were addressed, and he stated that should the Council adopt the ordinance, the assessment would be ripe for litigation purposes. Mr. Arlotta also suggested that the Mayor and Council determine the public benefit versus the private benefit of the road improvements.

Mayor Duncan asked if Mr. Arlotta had raised the issues at any of the public hearings on this matter or had MIG presented any of the arguments at an earlier time. Mr. Arlotta responded that as far as he knew, MIG was not represented at the public hearing. Mr. Arlotta also said that MIG retained his firm in the summer of 1991. *(Clerk's Note: See page 5 of these Minutes for further clarification from Mr. Arlotta regarding this matter).*

2. Mansfield Kaseman, 704 Carter Road, President, Community Ministries of Rockville, thanked each member of the Mayor and Council for their outstanding services to the community. He said he remembered with excitement the election of Mayor Duncan who has since brought the City a long way, and he said it had been a pleasure working alongside with the Mayor and Council in the community. Reverend Kasemen said that Mayor Duncan had been someone who has appreciated the important contributions of the religious community. He said he looked forward to the continuing relationship with the remaining and the incoming members of the Council.

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3. Eileen McGuckian, Peerless Rockville, on behalf of the organization, thanked the Mayor and Council for their leadership over the six-year period. She said this Mayor and Council particularly have recognized the significant role of preservation in the community, and she cited some of the many accomplishments made in the efforts of community preservation.

4. Harriet Manley, President, College Gardens Community Association said it had been a pleasure working with the Mayor and Council on many matters of concern; she thanked the Mayor and Council for considering the establishment of an urban wildlife sanctuary of the Upper Watts Branch park.

5. Phil Cantelon, President, Montgomery County Historical Society thanked the Mayor and Council for helping restore buildings at the historical society campus; he also noted the recent library restoration and added his appreciation to Mayor Duncan, the Council and Councilmember Robbins for all their good work.

6. Russ Arlotta clarified his earlier comments and said that he believed that when the record on the Research Boulevard special assessment public hearing was kept open, he had then voiced the concerns then to the City Manager. He asked that the City consider a mechanism for notifying the public when property was purchased.

Re: Consent Agenda

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the following Consent Agenda items were unanimously adopted.

- (A) Introduction of Resolution to amend the Charter of the City of Rockville so as to provide that conviction of a misdemeanor offense shall be punishable by a fine not exceeding One Thousand Dollars, or imprisonment for six months, or both.
- (B) Introduction of Resolution to amend the Charter of the City of Rockville so as to set forth the procedure for appeals of special assessment levies.

Re: Approval of waiver for on-site SWM for St. Raphael's Church, an 11.29 acre parcel (of which 0.34 acres is to be used for a new rectory) on Kimblewick Road in the Cabin John drainage area, and the acceptance of \$5,600 contribution for the off-site SWM fund.

The runoff from this site is conveyed to an outfall at the proposed Potomac Woods SWM Facility. Waiver category: III-A-1.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the waiver for on-site SWM for St. Raphael's Church was approved and the \$5,600 contribution for the off-site SWM fund was accepted.

Re: Introduction and Adoption of Ordinance to Grant Text Amendment Application T-136-93, Rockville Planning Commission, Applicant.

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Amendment to the use permit provisions of the Zoning Ordinance so as to establish a maximum eight year time limit on implementation of any use permit for a development consisting of more than one building. (Requires four votes to waive layover prior to adoption.)

Ordinance No. 15-93

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance was introduced. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the layover requirement was waived in order to allow the Mayor and Council to immediately proceed with adoption of the Ordinance.

Councilmember Krasnow inquired about the limitation for "commencement" for all phases of development not exceeding eight years; she questioned what was meant by "commencement" and asked if there was anything for completion requirements for a given time period.

Chief of Planning, Larry Owens, explained that an applicant had to commence construction by doing something that was in reliance of the permit, i.e., burying footings and getting the foundation up above the ground was usually considered sufficient in order to vest in a building permit.

Councilmember Coyle stated that he was in support of adopting the Ordinance because it had been clarified that this action would not grandfather any of the current use permits.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Ordinance granting Text Amendment Application T-136-93, the full text of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

Re: Adoption of Resolution  
to Deny Text  
Amendment Application  
T-138-93, Rockville  
Planning Commission,  
Applicant.

Amendment to the  
Administration section  
of the Zoning Ordinance  
to change the  
membership of the  
Planning Commission  
from seven to five.

Resolution 25-93

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, with Mayor Duncan voting Nay, the Resolution denying Text Amendment Application T-138-93, the full text of which can be found in Resolution Book No. 10 of the Mayor and Council, was adopted.

Re: Adoption of Ordinance to levy  
assessments against properties  
specially benefitted from the  
construction of Research  
Boulevard, north of State Route  
28, to South Shady Grove Road  
(Project No. OA12).



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Ordinance No. 16-93

Mr. Romer explained that the matter had been handled in accordance with normal special assessment processes. He said that the Mayor and Council had directed that staff hold off on the final adoption of the ordinance until other matters of business were concluded; most specifically the annexation of the Thomas Farm. He said that this was part of a dual project-- the Gude drive assessments were introduced around the same time. He also said he had a number of conversations with the potential assessee on this matter and that staff fully recommended the adoption of the ordinances.

Mayor Duncan noted the concerns raised by Mr. Arlotta. City Attorney Glasgow explained that the purpose of the agreement was to address the issue of what the extent of public and private benefit was at that time. Mr. Glasgow said the staff at that time determined that this was an appropriate assessment. Regarding the issue of notice, Mr. Glasgow said there were many types of governmental actions that affect property; the information about the assessments would have been available if someone had called the City to inquire about the status of taxes and pending special assessments with the City. Given the potential for litigation in this matter, Mr. Glasgow suggested the Mayor and Council end discussion of this issue. He also said he agreed with the City Manager's recommendation to proceed with adoption of the ordinances this evening.

Regarding the concern that the special assessments had not been recorded in the County's Land Records, Mr. Glasgow explained that this was not a process that was done in the past; however, he said the City Manager was now looking at how this process should be handled in the future. He explained that in this matter, there was a significant hiatus of time

between the project's completion to the time of the levying of the assessments. He said that staff was now levying assessments promptly once a project was completed. In addition, Mr. Glasgow said that an ordinance could be immediately recorded to give additional notification to a prospective property owner that there was a contemplated special assessment.

Councilmember Marrinan asked for an explanation of Mr. Arlotta's point made regarding title insurance. Mr. Glasgow explained that title insurance offered protection against certain defects in the title, i.e., unknown heirs, liens or encumbrances, etc. He said that Mr. Arlotta had pointed out that at the time the title search was undertaken, there was nothing in the land records to ascertain the status of the property that would preclude development and would put a purchaser on notice that there was a potential problem that the purchaser might be subject to.

Mr. Coyle questioned whether the assessment approach became an issue at the time the assessment agreement was negotiated between Research Boulevard and the City. Mr. Glasgow said that he believed at that time Boulevard Associates applied for the permits, it was determined at the staff level that it would be appropriate to get an agreement as to what assessments would be. Mr. Coyle commented that it appeared that the issue was considered solved when Research Boulevard had accepted the assessment agreement.

Councilmember Krasnow commented that while she understood MIG's concerns, it appeared that the prior owner and not the City was at fault in the matter. She said it was unfortunately, an issue which would have to be solved in a Court of law.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the amendments to the Ordinance were accepted. Upon motion of Councilmember

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Coyle, duly seconded and unanimously passed, the amended Ordinance, levying assessments against properties specially benefitted from the construction of Research Boulevard was adopted. The full text of the Ordinance can be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Adoption of Ordinance to levy assessment against property specially benefitted from the construction of the Research Boulevard Water Main (Project No. 3B32).

Ordinance No. 17-93

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the amendments to the Ordinance were accepted. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the amended Ordinance, to levy assessments against property specially benefitted from the construction of the Research Boulevard Water Main Project was adopted. The full text of the Ordinance can be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Approval of projects and funding levels which are to be submitted in a Community Development Block Grant (CDBG) Application to Montgomery County.

The application will be the basis of how the City will use \$318,000 in CDBG funding.

Mr. Romer said this was an annual event where CDBG funds were allocated to the City. The Mayor and Council had conducted a public hearing to hear suggestions from the

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community and what was before the Mayor and Council, was staff's compilation of the report and the recommended funding package.

Councilmember Krasnow said she was concerned about what would happen if several community groups could not get the funds they had requested. Assistant Chief of Economic Development, Ed Duffy explained that if necessary, the City could make a contract amendment to substitute one amount for another.

Councilmember Krasnow asked about the salary requested for the director of the Rockville Housing Authority (RHA). Mr. Duffy said the salary was being recommended for partial funding.

Councilmember Coyle noted that Latino Outreach position requested by Community Ministries of Rockville was not being funded, however, he noted that funding was being recommended for Hispanics United for Rockville's (HUR) outreach position. He asked if there were cooperative efforts between the two groups since many of the clients each organization served were similar. Mr. Duffy responded that the two outreach projects were different, but some of the services did overlap and would be available through HUR.

Councilmember Krasnow asked what were the plans for funding the youth employment opportunity requested by RHA. Councilmember Coyle commented that this issue had come up at a recent forum in Lincoln Park, and he asked if staff could follow up and determine what kind of efforts could be made for front-end planning for this as opposed to waiting for the next budget cycle. Mr. Romer responded that staff had already begun looking into this.

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Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the projects and funding levels to be submitted in a CDBG application to Montgomery County were approved.

Re: Adoption of Ordinance to Issue  
General Obligation Bonds in an  
Aggregate Amount not to  
exceed \$5,000,000.

Ordinance No. 18-93

Mr. Romer explained that the bond issue was called for in the CIP budget approved by Mayor and Council. He said staff anticipated the sale of the bonds later in the year; however, the market conditions were so favorable, it was shown to be a good time to go to bond sale at this time. Mr. Romer noted that the projected savings were close to \$1 million.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the ordinance, the full text of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

Re: Adoption of Ordinance to  
refund selected existing General  
Obligation Bonds in an amount  
not to exceed \$27 Million.

Ordinance No. 19-93

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance to refund selected existing General Obligation Bonds, the full text of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

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Re: Adoption of Ordinance to Amend Zoning Map by adding approximately 285.5 acres of land and establishing R-S, Suburban Residential zoning. Annexation Petition X-113-92, Mayor and Council of Rockville, Petitioners.

To establish R-S, Suburban Residential zoning upon annexation of approximately 285.5 acres of land located in the northeast quadrant of the intersection of Shady Grove Road and Darnestown Road, including the Thomas farm and Pearson property.

Ordinance No. 20-93

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Ordinance amending the Zoning Map by adding approximately 285.5 acres of land and establishing R-S, Suburban Residential zoning was adopted. The full text of the Ordinance can be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Adoption of Ordinance establishing a new Master Plan for Rockville.

The Planning Commission has prepared and approved a new Master Plan to guide Rockville into the next century. The Mayor and Council will adopt a new Master Plan for Rockville.

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Ordinance No. 21-93

Mayor Duncan thanked City staff, Planning staff and the Planning Commission, who were all involved in the preparation of the Master Plan.

Councilmember Coyle said that the work involved was a very important function because it meant the future planning and development of the City's neighborhoods.

Mr. Glasgow noted that the Ordinance introduced on October 11th, did not include amendments made at the Planning Commission's meeting on October 13th. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the amendments were approved. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Ordinance, as amended, the full text of which can be found in Ordinance Book No. 18 of the Mayor and Council, was adopted.

Councilmember Marrinan remarked that the adoption of the Master Plan was a historic event for the City; he said the future of the City going forward in the next century was guided by the Master Plan. He also thanked the Planning Commission and the staff.

Re: FYI/Correspondence

1. Councilmember Krasnow congratulated Officer Rawlins for being chosen by the American Legion as Police Officer Of The Year; she noted that Officer Rawlins had done a good job in the Rockville community.

2. Mayor Duncan noted the City was awarded first place in the Statewide police vehicle competition for the best equipped police cruiser, and second place for the D.A.R.E van.

3. Councilmember Coyle referenced the information provided on pedestrian and bicycle traffic accidents; he asked for more information on the particulars of some of the incidents cited.

4. Councilmember Coyle noted a letter from Ann Hoey of Montgomery County's Department of Environmental Protection (DEP) regarding the City's new refuse contract; Mr. Coyle said the letter supports the City's position on the refuse proposal.

Re: New Business

1. Councilmember Krasnow noted that the metropolitan area was a non attainment area in terms of air quality and had to achieve a 50% reduction by 1996. She said the Air Quality Commission has developed the State's implementation plan which was available for review at the library. A public hearing on the plan was scheduled for November 30, 1993 at the Park and Planning Commission in Silver Spring.

2. Councilmember Coyle asked if there was any opportunity for the City to develop its own fines schedule for traffic violations. Mr. Romer said he would report back to the Mayor and Council on this.

3. Mayor Duncan noted that at the last meeting, staff was instructed to come up with an alternative for College Gardens, e.g, downzoning the property or putting in an overlay zone. He said that staff were working on a plan and would report back to the Mayor and Council. Mayor Duncan also said the City needed to work with the neighbors on disseminating information to keep citizens informed, and he suggested that the City assist in getting information out along with the local information to get citizens involved.



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Re: **New Business Item Re:**  
Recommendations on establishing an  
urban wildlife sanctuary in Upper  
Watts Branch Park.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the City Manager was instructed to apply to the state government for an urban wildlife sanctuary designation for the City-owned land in upper Watts Branch Park.

5. Mayor Duncan presented to the City, a cashier's check for \$412.16 which represented the money left over from his campaigns. He asked that the City apply the donation towards whatever recommendations the Woods Task Force came up with in terms of what would be appropriate expenditures for the project.

Re: Next Meeting

The first General Session of the new Mayor and Council will take place at 8:30 p.m. following the inauguration and swearing in ceremony at the F. Scott Fitzgerald Theater on November 15, 1993.

Re: Tribute to Mayor Duncan

A video was shown highlighting Mayor Duncan's twelve years on the City Council. Mayor Duncan thanked staff for the video and said it was a tremendous parting gift which brought back a lot of good memories.

Councilmember Coyle read a note from Councilmember Dave Robbins who acknowledged the "Doug Duncan Years" and what they have meant for Rockville. Mr. Robbins' letter spoke of Mayor Duncan's vision of a strong and healthy community. He said Mayor Duncan had the ability and energy to get things done as well as a love for Rockville and a commitment to its citizens.

Councilmember Krasnow said it had been a real privilege to have served the City for two years with Mayor Duncan and she was extremely impressed with the rapport he had with individuals and groups; she said that people felt like they had a voice. Mayor Duncan was able to put his finger on specific problems and identify workable and cost efficient solutions. Ms. Krasnow said he was a tremendous role model who would be a tough act for others to follow; she wished him well in his future endeavors and said she hoped that he would not really be saying goodbye to Rockville.

Councilmember Marrinan said the City owed Mayor Duncan and his family a great deal for all his work and dedicated leadership over the past twelve years. Mr. Marrinan said he enjoyed working with the Mayor for the past four years as a member of Council; he said it was not easy for people who were involved in public life; but Mr. Duncan was a person others looked to for the right guidance to do the work. Mr. Marrinan said that he personally, as well as the Marrinan family, wished Mayor Duncan good luck.

Councilmember Coyle said he worked with Mayor Duncan for the past eight years and "leadership" was the word that came to him when he thought of Doug Duncan. He said many might not realize that when Mr. Duncan came to the City of Rockville, there was a lot of changing--a new city manager, long-time leaders in the community were moving on, and the City really needed new leadership and a vision that would energize citizens to take action; he said Mayor Duncan had the ability to see this and get people involved. He said when one thought of Mayor Duncan, they thought of Hometown Holidays, the tag banner program, Oktoberfest, the Rockville-Baltimore Sister City relationship, the expanded Sister City

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relationship, Rockville Arts Place, the farmers market, Summer in the Square, Neighborhood Night Out, the habitat house for humanities, and the many other programs and events that could be tied to Mr. Duncan's leadership. Mr. Coyle said that "the best way to predict the future is to create it", and was a quote that he felt best fit Mayor Duncan. Mr. Coyle said it was great serving alongside Mayor Duncan and they looked forward to greater things in Montgomery County and the State of Maryland.

Mayor Duncan thanked the members of the Council and expressed heartfelt thanks to his family for their support and love over the past twelve years. He said when he thought about his experiences in the City of Rockville, he realized it had been a tremendous amount of fun to be the Mayor of his home town and to be able to give back to the people all they've given him and his family. He said Rockville was a great place for kids to grow up with the right values to lead productive lives. Mr. Duncan said he stood in awe of the people who have volunteered much of their time to improve the quality of life for others and who have inspired him for many years. He expressed sincere thanks to the people of Rockville and the friends he had made over the past twelve years. He said when he was elected Mayor, it was with a vision to keep Rockville as a strong residential city with a strong business community while looking out for all citizens of the City; and he said he was proud he was able to accomplish those visions.

Mayor Duncan then offered special thanks to the city staff and employees who, he said, do a tremendous job for the people of Rockville. He said the City has received local, national and regional recognition for its excellence. He also expressed appreciation to the three appointed staff he worked the most with--the City Manager, City Clerk, and City Attorney--who

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he said have taught him quite a bit. He said he learned a lot, had a lot of fun, and it had been a tremendous thrill to work with the appointed staff and other City employees, and he appreciated their patience in working with him to get to the right solution.

Re: Adjournment

There being no further business to come before the last meeting of the current sitting Mayor and Council, the meeting was adjourned at 9:20 p.m.